

App. No. 10/044,294  
Amendment Dated October 7, 2003  
Reply to Office Action of July 30, 2003

### REMARKS/ARGUMENTS

The instant application was filed on October 26, 2001. A Restriction Requirement was mailed April 9, 2003. A response to the Restriction Requirement and a concurrent preliminary amendment were then filed on May 9, 2003. A first Office Action was mailed June 18, 2003. Due to a cross-mail problem, the first Office Action did not take into account the preliminary amendment. A supplemental office action was then mailed on July 30, 2003 that considers the preliminary amendment. This Amendment is filed in response to the supplemental Office Action mailed July 30, 2003.

According to the Office Action mailed July 30, 2003, the traversal of the restriction requirement was rejected, and due to the election, the claims of Group I (claims 1, 40-43) are at issue in the present Amendment. Claims 1, 42-43 are rejected under 35 U.S.C. 102(b) as being anticipated by Chin et al. (US Pat No. 5,974,034). Claims 40-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chin. Claims 1, and 40-42 are currently amended. Claim 43 is cancelled. Claims 44-60 are newly added. Claims 1, 40-42 and 44-60 remain in consideration and pending. Claims 2-39 are withdrawn from consideration and remain pending.

#### I. Rejection of claims 1, and 42-43 under 35 U.S.C. §102(b)

Claims 1 and 42-43 are rejected in the Office Action under 35 U.S.C. §102(b) as being anticipated by Chin et al. (US Pat No. 5,974,034). Applicant respectfully disagrees as explained below.

With regard to independent claims 1, and 42-43, claim 43 has been cancelled. Claims 1 and 42 have each been amended in this Amendment. Applicant respectfully requests reconsideration of these pending claims as amended.

Independent claims 1 and 42 each recite the use of a subcarrier for transmitting data from a broadcast transmitter to a device configured to receive both broadcast and localcast transmissions. An FM subcarrier, for instance, utilizes the available frequencies above the FM stereo signal within the available modulation bandwidth of an FM station. Chin et al. makes no mention of using subcarrier channels for a broadcast transmission, nor could the system proposed by Chin et al. be altered to utilize the subcarrier channel transmission method of the present

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invention. Chin et al. states that "transmissions from network control center 101, local base stations 103-105, and user terminals 106-1 to 106-n are synchronized to share a common communication frequency under a time-division multiplexed access (TDMA) scheme." (see column 4, lines 12-15)(*emphasis added*). In contrast, the invention as claimed takes advantage of two different transmission methodologies in the same FM signal bandwidth: one for subcarrier broadcast data, and another for localcast data. Chin et al. does not recite the limitation of a subcarrier transmission in addition to the FM frequency transmission as provided in amended claims 1 and 42. Accordingly, claims 1 and 42 are not anticipated by Chin et al., and the rejection of claims 1 and 42 under 35 U.S.C. §102(b) is traversed.

## II. Rejection of claims 40-41 under 35 U.S.C. §103(a)

Claims 40-41 are rejected in the Office Action under 35 U.S.C. §103(a) as being unpatentable over Chin et al. (US Pat No. 5,974,034). Applicant respectfully disagrees as explained below.

Claims 40 and 41, similar to claims 1 and 42, recite the use of a subcarrier for the broadcast transmission in addition to the FM frequency transmission for the localcast transmission. As described above, Chin et al. does not include, teach, or suggest this limitation of two transmission methodologies for transmitting broadcast and localcast data. Accordingly, claims 40 and 41 are patentable over Chin et al., and the rejection of claims 40 and 41 under 35 U.S.C. §103(a) is traversed.

Claims 2, 3, 5-7, and 9 are dependent on claim 1, claims 13-16 are dependent on claim 10, and claims 19 and 20 are dependent on claim 17. Therefore, claims 2, 3, 5-7, 9, 13-16, 19, and 20 are patentable over Glass for at least the reasons stated above, and the rejection of claims 2, 3, 5-7, 9, 13-16, 19, and 20 under 35 U.S.C. §103(a) is traversed.

## III. Conclusion

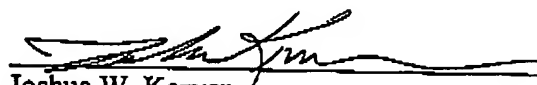
In view of the foregoing amendments and remarks, all pending claims are believed to be allowable and the application is in condition for allowance. Therefore, a Notice of Allowance is respectfully requested. Should the Examiner have any further issues regarding this application,

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the Examiner is requested to contact the undersigned attorney for the applicant at the telephone number provided below.

Respectfully submitted,

MERCHANT & GOULD P.C.

  
Joshua W. Korver  
Registration No. 51,894  
Direct Dial: 206.342.6257

MERCHANT & GOULD P.C.  
P. O. Box 2903  
Minneapolis, Minnesota 55402-0903  
206.342.6200



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